

LEGISLATURE OF NEBRASKA
NINETY-EIGHTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 355

Introduced by Revenue Committee: Landis, 46, Chairperson;
Baker, 44; Bourne, 8; Connealy, 16; Hartnett, 45;
Janssen, 15; Redfield, 12

Read first time January 14, 2003

Committee: Revenue

A BILL

1 FOR AN ACT relating to income tax; to amend section 77-2733,
2 Reissue Revised Statutes of Nebraska; to change
3 nonresident income provisions; and to repeal the original
4 section.
5 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 77-2733, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 77-2733. (1) The income of a nonresident individual
4 derived from sources within this state shall be the sum of the
5 following:

6 (a) The net amount of items of income, gain, loss, and
7 deduction entering into his or her federal taxable income which are
8 derived from or connected with sources in this state including (i)
9 his or her distributive share of partnership income and deductions
10 determined under section 77-2729, (ii) his or her share of small
11 business corporation or limited liability company income determined
12 under section 77-2734.01, and (iii) his or her share of estate or
13 trust income and deductions determined under section 77-2725; and

14 (b) The portion of the modifications described in section
15 77-2716 which relates to income derived from sources in this state,
16 including any modifications attributable to him or her as a
17 partner.

18 (2) Items of income, gain, loss, and deduction derived
19 from or connected with sources within this state are those items
20 attributable to:

21 (a) The ownership or disposition of any interest in real
22 or tangible personal property in this state;

23 (b) A business, trade, profession, or occupation carried
24 on in this state; and

25 (c) Any lottery prize awarded in a lottery game conducted
26 pursuant to the State Lottery Act.

27 (3) Income from intangible personal property including
28 annuities, dividends, interest, and gains from the disposition of

1 intangible personal property shall constitute income derived from
2 sources within this state only to the extent that such income is
3 from property employed in a business, trade, profession, or
4 occupation carried on in this state.

5 (4) Deductions with respect to capital losses, net
6 long-term capital gains, and net operating losses shall be based
7 solely on income, gains, losses, and deductions derived from or
8 connected with sources in this state, under rules and regulations
9 to be prescribed by the Tax Commissioner, but otherwise shall be
10 determined in the same manner as the corresponding federal
11 deductions.

12 (5) If a business, trade, profession, or occupation is
13 carried on partly within and partly without this state, the items
14 of income and deduction derived from or connected with sources
15 within this state shall be determined by apportionment under rules
16 and regulations to be prescribed by the Tax Commissioner.

17 (6) Compensation paid by the United States for service in
18 the armed forces of the United States performed by a nonresident
19 individual shall not constitute income derived from sources within
20 this state.

21 (7) Compensation paid by a resident estate or trust for
22 services by a nonresident fiduciary shall constitute income derived
23 from sources within this state.

24 (8) Compensation paid by a business, trade, or profession
25 shall constitute income derived from sources within this state if:

26 (a) The individual's service is performed entirely within
27 this state;

28 (b) The individual's service is performed both within and

1 without this state, but the service performed without this state is
2 incidental to the individual's service within this state;

3 (c) The individual's service is performed without this
4 state, but the service performed without this state is related to
5 the transactions and activity of the business, trade, or profession
6 carried on within this state; ~~or~~

7 (d) Some of the service is performed in this state and
8 (i) the base of operations or, if there is no base of operations,
9 the place from which the service is directed or controlled is in
10 this state or (ii) the base of operations or the place from which
11 the service is directed or controlled is not in any state in which
12 some part of the service is performed, but the individual's
13 residence is in this state; or

14 (e) Some of the service as a corporate director is
15 performed in this state and the headquarters of the corporation is
16 in this state, but does not include any fees directly attributable
17 to attendance at board meetings outside this state.

18 Sec. 2. Original section 77-2733, Reissue Revised
19 Statutes of Nebraska, is repealed.